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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

JOAQUIN A. RODRIGUEZ TORRES,
 CORNELIA M. STEUBE,

Plaintiffs,

v.

GERARD HEINAUER, Director, U.S.
 Citizenship and Immigration Services,
 Nebraska Service Center;
 DR. EMILIO T. GONZALEZ, Director, U.S.
 Citizenship and Immigration Services;
 MICHAEL CHERTOFF, Secretary of the U.S.
 Department of Homeland Security;
 ROBERT MUELLER, Director,
 Federal Bureau of Investigations;
 ALBERTO GONZALES, Attorney General,
 U.S. Department of Justice,

Defendants.

No. C 07-3345 TEH

ANSWER

Defendants hereby submit their answer to Plaintiffs' Complaint for a Writ in the Nature of Mandamus.

The initial unnumbered Paragraph consists of Plaintiffs' characterization of this action for which no answer is necessary; however, to the extent a response is deemed to be required, the Defendants deny that they have improperly withheld action on Plaintiffs' applications to their

1 detriment.

2 **PARTIES**

3 1. Defendants admit the allegations in Paragraph One.

4 2. Defendants admit the allegations in Paragraph Two.

5 3. Defendants admit the allegations in Paragraph Three.

6 4. Defendants admit the allegations in Paragraph Four.

7 5. Defendants admit the first two sentences in Paragraph Five. Defendants deny the third
8 sentence of Paragraph Five. Defendants are without sufficient information to admit or deny the
9 allegations in the last sentence of Paragraph Five.

10 **JURISDICTION**

11 6. Paragraph Six consists of Plaintiffs' allegation regarding jurisdiction, to which no
12 responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,
13 Defendants deny the allegations in this paragraph.

14 **VENUE**

15 7. Defendants admit the allegations in Paragraph Seven.

16 **EXHAUSTION**

17 8. Defendants deny the allegations in Paragraph Eight.

18 **STATEMENT OF FACTS**

19 9. Defendants are without sufficient information to admit or deny the allegations in Paragraph
20 Nine.

21 10. Defendants admit the allegations in Paragraph Ten.

22 11. Defendants admit the allegations in Paragraph Eleven.

23 12. Defendants are without sufficient information to admit or deny the allegations in
24 Paragraph
25 Twelve.

26 13. Defendants deny the allegations in Paragraph Thirteen.

27 14. Defendants admit the first two sentences in Paragraph Fourteen. Defendants are without
28 sufficient information to admit or deny the remaining claims in Paragraph Fourteen.

1 15. Defendants admit that Plaintiffs must obtain annual work permits and travel parole
2 documents. Defendants are without sufficient information to admit or deny the remaining
3 allegations in Paragraph Fifteen.

4 16. Defendants are without sufficient information to admit or deny the allegations in
5 Paragraph Sixteen.

6 17. Defendants deny the allegations in Paragraph Seventeen.

7 **FIRST CLAIM FOR RELIEF**

8 18. Defendants re-allege and incorporate by reference to Paragraph One through Seventeen as
9 if set forth fully herein.

10 19. Defendants admit the allegations in Paragraph Nineteen.

11 20. Defendants deny the allegations in Paragraph Twenty.

12 21. Defendants deny the allegations in Paragraph Twenty-One.

13 **RELIEF REQUESTED**

14 22. Paragraph Twenty-Two consists of Plaintiffs' prayer for relief, to which no admission or
15 denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny
16 this paragraph.

17 **FIRST AFFIRMATIVE DEFENSE**

18 The court lacks jurisdiction over the subject matter of this action.

19 **SECOND AFFIRMATIVE DEFENSE**

20 The Complaint fails to state a claim against the Defendants upon which relief can be granted.

21 **THIRD AFFIRMATIVE DEFENSE**

22 No acts or omissions by the United States or its employees were the proximate cause of any
23 injury or damages to the Plaintiffs.

24 **FOURTH AFFIRMATIVE DEFENSE**

25 At all times alleged in the complaint, Defendants were acting with good faith, with
26 justification, and pursuant to authority.

27 **FIFTH AFFIRMATIVE DEFENSE**

28 Defendants are processing the applications referred to in the Complaint to the extent possible

1 at this time. Accordingly, no relief as prayed for is warranted.

2 **SIXTH AFFIRMATIVE DEFENSE**

3 Defendants' delay is not unreasonable as a matter of law.

4 WHEREFORE, Defendants pray for relief as follows:

5 That judgment be entered for Defendants and against Plaintiffs, dismissing Plaintiffs'
6 complaint with prejudice; that Plaintiffs take nothing; and that the Court grant such further relief
7 as it deems just and proper under the circumstances.

8 Dated: August 31, 2007

Respectfully submitted,

9 SCOTT N. SCHOOLS
10 United States Attorney

11 /s/
12 ILA C. DEISS
13 Assistant United States Attorney
14 Attorneys for Defendants
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